

COPY

CERTIFIED MAIL--
RETURN RECEIPT REQUESTED

June 23, 1987

John D. O'Keefe, Esquire
Suite 1113 Robinson Building
15th and Chestnut Streets
Philadelphia, Pennsylvania 19102

Re: Duane Marine Salvage Corporation, Perth Amboy, New Jersey
Administrative Order No. II-CERCLA-50107
Respondent Del Val Ink & Color, Inc.

Dear Mr. O'Keefe:

This letter will serve as EPA's response to your inquiry of March 26, 1987, respecting your petition for withdrawal of EPA's administrative order No. II-CERCLA-50107, made on behalf of Del Val Ink & Color, Inc. ("Del Val") in the matter named in the caption. The petition was originally made by letter dated September 16, 1985.

Please note the fact that your petition was made to EPA long after most of the other petitions with similar purpose reached us in connection with the Duane Marine site. During the early part of 1985, EPA made its determinations after reviewing those petitions, and we responded to numerous requests for assistance with the preparation of such petitions.

I find a letter to you dated 21 February, 1986, in which I explained in detail the fact basis that would be required for EPA to make a decision favorable to Del Val respecting your client's claim. On the facts already of record, a determination that all of Del Val's 7920 gallons of waste was hazardous for CERCLA purposes would be mandated. Nothing in your letter of September 16, 1985, argues against that classification, given the stated nature of the wastes, the information on the two manifests, and the fact that the wastes were, as you said, "properly manifested" as hazardous wastes and sent for disposal to a hazardous waste disposal facility.

As to your claim that Del Val's wastes were consumed in the Duane Marine fire, I explained to you in the 21 February, 1986, letter that further information would be needed to support such a claim. No new correspondence from you appears in the record,

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and, without any hard data offered to prove the validity of the claim, no change could have been made in the status of Del Val as a respondent to EPA's administrative order.

Indeed, your letters of January 20, 1987, and March 26, 1987, came as something of a surprise. Janet Feldstein assures me that no additional information has come from you since the letter of September 16, 1985.

Accordingly, EPA must deny Del Val's petition, in the absence of any documentation of its claim that Del Val's wastes were not present at the Duane Marine site at the time of the removal action, and on the basis of a record replete with documentation of the hazardous nature of Del Val's wastes.

If you have further questions, please contact me at (212) 264-8067.

Sincerely,

Margaret Thompson
Assistant Regional Counsel
New Jersey Superfund Branch
Office of Regional Counsel

cc: John F. Lynch, Jr., Esq., Duane Marine Steering Committee